

**Colorado Supreme Court Advisory Committee on the Rules of Probate Procedure
March 24, 2017 Minutes**

A quorum being present, the Colorado Supreme Court Advisory Committee on Rules of Probate Procedure was called to order by Judge Diana Terry at 9:30 a.m., in the Court of Appeals Full Court Conference Room on the third floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

Name	Present	Excused
Judge Diana Terry, Chair	X	
Shari Caton		X
Judge Mary Deganhart		X
Emily Gregory	X	
Michael Holder	X	
Magistrate Frances Johnson	X	
Michael Kirtland		X
Lauris Laue		X
Judge Elizabeth Leith	X	
Connie Lind	X	
Judge Mark MacDonnell	X	
Marcie McMinimee	X	
Judge Devin Odell		X
Amber Roth	X	
Charles Spence	X	
Casey Williams	X	
Non-voting Participants		
Justice Allison Eid, Liaison		X
Veronique Van Gheem		X

I. Attachments & Handouts

A. March 24, 2017 agenda packet

B. Supplemental Material

- a. JDF 712, 722, and 963
- b. JDF 807, 810, 891, 999, and XXX
- c. SB 17-154

II. Announcements from the Chair

Judge Terry welcomed all members to the meeting. She reminded the committee that its first meeting was in January of 2016, and since then, every probate rule and form has been reviewed by a subcommittee. The committee has accomplished a lot, and Judge Terry wanted to thank everyone for their dedication.

III. Business

A. Judicial Department Form format

Judge Terry surveyed the probate judges and asked them if the forms posted on the court's website should be available in an editable or non-editable format? Except for a few, the overwhelming majority of judges thought that the forms should be editable. Judge Terry, with Andy Rottman, the Chief's counsel, and the State Court Administrator's Office (SCAO) are going to work to make the forms editable.

Members had questions about the format of the editable forms, and a few possibilities were discussed. Some forms may have certain sections or tables that are editable, or perhaps the entire form will be editable and users will have to check a box at the end of the form indicating it has been modified. There were two questions from committee members: 1) can all forms be posted in an editable format in the meantime, while things related to policy and consistency are worked out; and 2) can forms be posted in rich text format, not just in Word, for those that don't use Microsoft products. Judge Terry said she would take both requests to Chief Justice Rice and follow-up with the committee.

B. Probate Forms

Subcommittee chair Connie Lind stated that the Forms Subcommittee had met about 10 times. All forms received style and consistency amendments and a few received substantive amendments. Forms with substantive revisions were discussed as follows:

- Hearing Without Appearance Forms, JDF 712, 722, and 963. Rule 24, Determination of Matters by Hearing Without Appearance, was amended and the forms were modified to track the rule. There was a question about the certificate of service language and the subcommittee explained that the service boxes on all forms were changed to be consistent. A member stated that these forms needed different language, and there was a motion to amend the certificate of service language, as described below:

I certify that on _____ (date), a copy of this _____
([notice along with the motion/petition](#)~~name of document~~) was served as follows on
each of the following:

The amendment passed unanimously;

- The subcommittee is recommending deleting JDF 713, 962, and the Mental Health Forms. The subcommittee recommended deleting JDF 713 and 962 because there are similar forms available, and the practitioners on the subcommittee had never used either form. The committee was asked if anyone had ever used either form and no one indicated they had. The subcommittee was also recommending deleting the Mental Health Forms, located in Court Rules

Book 1 (page 1673). The forms have never been converted into an electronic format by the Judicial Branch and the Colorado Department of Human Services has electronic versions of similar forms on their website. There was a motion to delete JDF 713, 962, and the Mental Health forms that passed unanimously;

- JDF 731 and 854. The subcommittee wanted to know which language was preferred on JDF 731: the new receipt language or the old verification? There was a motion to adopt the new language and strike the verification that passed unanimously. On JDF 854, there is a statement related to a federal firearms prohibition, and the subcommittee wondered why it was on the form. It was unclear why the language was included, and one member stated that often the form is used when someone is deceased, so having such a statement isn't appropriate. There was a motion to strike the statement that passed unanimously;
- JDF 834, 850, 882, and 885, and new form, JDF XXX, Case Information Sheet. JDF 882 and 885 were substantially amended to track the new online conservator system. A member asked if the subcommittee had considered amending the forms to include decedents' estates? The subcommittee had not, as they saw decedents' estates as debits and credits and something that generally didn't fit here. Forms 834, 850, 882, and 885 all have DOB and SSN lines. The subcommittee is recommending striking the DOB and SSN lines from those forms and putting that information in a Case Information Sheet, JDF XXX, which could be sealed by the court. The subcommittee acknowledged that the court would not have to seal the Case Information Sheet, because the form isn't included in CJD 05-01, but that it likely would. Ms. Lind offered to go to the Public Access Committee and ask that the new case information sheet be included in CJD 05-01.

There was a motion to adopt JDF 834, 850, 882, 885, and XXX as amended, with the following additional amendments:

- In 834, 850, 882, and 885, the age of the protected person and fiduciary will be added in;
- In XXX, the following language would be added in the "Note" section: "[This completed form must be filed with the Acknowledgement of Responsibilities prior to issuance of Letters or whenever there is a change of the Fiduciary](#)"; and "ward or protected person" would be added into the first line.

The motion was adopted unanimously.

- Verification. Through its review, the Forms Subcommittee discovered that there were many different verification statements used on the forms. The subcommittee had received a presentation from Judge Kuenhold about a bill in the legislature, SB 17-154, which contained uniform declaration language. The subcommittee

proposed adopting the uniform language in place of notary blocks and old verification statements, except where notary blocks are required by statute. A motion to adopt the new verification passed unanimously; and

- All other forms from the 700, 800, and 900 series, were included in the agenda materials. The other forms, not specifically singled out, received amendments for style, uniformity, or other reasons. The subcommittee asked if the committee had questions about the remainder of the forms. Hearing none, there was a motion to adopt all amended forms that passed unanimously.

C. Probate Rules

Judge Leith began and stated that Rule 24 had been amended by the subcommittee at their last meeting, and the only point the subcommittee couldn't agree on was the highlighted language in Rule 24's comment. Members who wanted the highlighted language struck stated that they wanted to keep cases moving forward and they hoped it would encourage meaningful objections. There was a motion to strike the highlighted language that passed unanimously. Finally, a motion was made to adopt all amended rules and forms and submit the package to the supreme court that passed unanimously.

The next steps in the process were discussed. When SB 17-154 adopted, the verifications on affected forms will be updated. After the updating is complete, the rules and forms package will be submitted to the supreme court. The committee voted unanimously that the proposal should be posted for public comment. The committee discussed how the committee could publicize the proposal, which included CLEs, Colorado Lawyer articles, Judicial Conference Presentations, and other trainings. The committee will likely meet in the fall after the comment period is closed, and Judge Terry again thanked the committee for all of their hard work.

IV. Future Meetings

TBD

The Committee adjourned at 11:20 a.m.

*Respectfully submitted,
Jenny A. Moore*